

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Proposing rule making related to grant programs and providing an opportunity for public comment

The Natural Resource Commission (Commission) hereby proposes to amend Chapter 23, “Wildlife Habitat Promotion with Local Entities Program,” Chapter 27, “Lands and Waters Conservation Fund Program,” Chapter 30, “Waters Cost-Share and Grant Programs,” Chapter 33, “Resource Enhancement and Protection Program: County, City and Private Open Spaces Grant Programs,” and Chapter 35, “Fish Habitat Promotion for County Conservation Boards,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 455A.5(6), 455A.19(1)“b,” 455A.19(1)“d” and 462A.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 452A.79A, 455A.19, 456A.29 to 456A.33, 461A.3, 464A.11 and 483A.3A.

Purpose and Summary

The Commission proposes to amend rules related to multiple grant programs to add provisions addressing conflicts of interest, electronic filing, and more adaptable filing deadlines.

Several grant programs do not explicitly address conflicts within the preselected scoring committee. This proposed rule making adds language that requires designation of at least two alternates. The alternates will be available to serve in the place of a primary committee member whenever the primary committee member is directly participating in a grant cycle.

Additionally, a few grant programs have antiquated submission rules, requiring that paper copies be mailed to a particular address. The Department of Natural Resources (Department) began using an electronic grant submission portal in 2020. This new method is easy and cost-effective. The proposed amendments require that applications be submitted via a form or a method specified on the Department’s website. This will enable the Department and grant applicants to utilize new systems as technology improves over time.

Finally, many grant programs have fixed deadlines set forth in rule (e.g., March 15). This prevents flexibility on grant deadlines even when extraordinary events may justify accommodations, such as the derecho and COVID-19, both experienced within the last several years. The proposed amendments mirror existing language in Chapter 30 that allows a submission deadline to be published on the Department’s website with at least 90 days’ notice. Notably, Chapter 30’s publication-based framework has been successfully utilized for 14 years. The proposed amendment would allow the Department to change a deadline when circumstances warrant while still ensuring plenty of public notice.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. A copy of the fiscal impact statement is available from the Department upon request.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found. A copy of the jobs impact statement is available from the Department upon request.

Waivers

This rule is subject to the waiver provisions of 571—Chapter 11. Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on November 22, 2022. Comments should be directed to:

Michelle Wilson
Iowa Department of Natural Resources
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319
Email: michelle.wilson@dnr.iowa.gov

Public Hearing

A public hearing at which persons may present their views orally will be held via conference call as follows. Persons who wish to attend the conference call should contact Michelle Wilson via email. A conference call number will be provided prior to the hearing. Persons who wish to make oral comments at the conference call public hearing must submit a request to Ms. Wilson prior to the hearing to facilitate an orderly hearing.

November 22, 2022
12 noon to 1 p.m.

Video/conference call

Persons who wish to make oral comments at the public hearing will be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the hearing and have special requirements, such as those related to hearing impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend subrule 23.6(2) as follows:

23.6(2) Time of submission. Applications for funds shall be reviewed and selected for funding ~~during January and July of each year~~ at least twice per year. The department shall publish on its website the date and time for submitting a funding proposal, providing at least 90 days' notice. Applications must be ~~received in acceptable form by~~ submitted to the Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319, by the close of business on the last business day of May for consideration at the summer review and the last business day of November for the winter review department as described on the website. Changes to grant applications must be submitted to the department no later than 4 p.m. the day prior to the committee review date. Upon timely notice to eligible recipients, additional selection periods may be scheduled if necessary to expedite the distribution of these

funds. In emergencies, local entities can obtain a waiver so that acquisition projects may be approved for retroactive payments, provided that funds are available and the project meets all other criteria.

ITEM 2. Amend subrule 23.7(1) as follows:

23.7(1) Review and selection committee.

a. A review and selection committee, hereinafter referred to as the committee, composed of one person appointed by the director to represent the department and designated by the director as chairperson and four persons appointed by the director to represent county conservation boards shall determine which grant applications and amendment requests shall be selected for funding. Additionally, there shall be at least two alternates designated by the director to represent the county conservation boards in the event of a conflict of interest.

b. Conflict of interest. An individual who is a member, volunteer, or employee of a county conservation board that has submitted a project shall not serve on the scoring committee during that award cycle. Instead, one of the alternates shall review and score in the individual's place.

ITEM 3. Amend subrule 27.5(2) as follows:

27.5(2) Application timing. The following information applies to local projects only. Grant applications and amendment requests which increase the existing grant amount shall be reviewed and selected for funding on an annual basis as provided in subrule 27.2(2). ~~Annual reviews shall be held in April. Applications must be received in acceptable form by the Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034, by the close of business on the work day closest to the fifteenth day of March.~~ The department shall publish on its website the date and time for submitting a funding proposal, providing at least 90 days' notice. Applications must be submitted to the department as described on the website.

ITEM 4. Amend subrule 27.6(1) as follows:

27.6(1) Review and selection committee.

a. A five-member review and selection committee, hereinafter referred to as the committee, shall be composed of three staff members of the department as appointed by the director of the department, one member appointed by the director with input from the Iowa Association of County Conservation Boards association of county conservation boards, and one member appointed by the director of the department with input from the Iowa League of Cities league of cities and the Iowa Parks and Recreation Association parks and recreation association. Additionally, there shall be at least two alternates designated by the director with input from both associations and the league of cities. The committee shall determine which grant applications and amendment requests shall be selected for funding at the local level. A review and selection committee for state projects shall be composed of four staff members of the department as appointed by the director.

b. Conflict of interest. An individual who is a member, volunteer, or employee of an entity that has submitted a project shall not serve on the scoring committee during that award cycle. Instead, one of the alternates shall review and score in the individual's place.

ITEM 5. Rescind rule 571—30.8(452A) and adopt the following **new** rule in lieu thereof:

571—30.8(452A) Application procedures. Applications for funds shall be reviewed and selected for funding at least once per year. The department shall publish on its website the date and time for submitting a funding proposal, providing at least 90 days' notice. Applications must be submitted to the department as described on the website.

ITEM 6. Rescind and reserve rule **571—30.14(77GA,SF2381)**.

ITEM 7. Amend rule **571—30.51(455A,461A,462A)**, definition of "Scoring committee," as follows:

"Scoring committee" means the water trails scoring committee, which consists of the coordinator, two ~~other~~ department staff members appointed by the director, and two representatives and two alternates of the water recreation community selected by the director.

ITEM 8. Amend rule 571—30.57(455A,461A,462A) as follows:

571—30.57(455A,461A,462A) Proposal evaluation.

30.57(1) Proposals will be evaluated by the scoring committee. The scoring committee shall evaluate both water trails development program proposals and low-head dam public hazard program proposals.

30.57(2) Conflict of interest. An individual who is a member, volunteer, or employee of an entity that has submitted a project shall not serve on the scoring committee during that award cycle. Instead, one of the alternates shall review and score in the individual's place.

ITEM 9. Amend subrule 33.5(2) as follows:

33.5(2) Applications for all grant programs shall be made on forms provided by the department. ~~An original and five copies shall be submitted by deadlines as specified in subrule 33.5(4) of this chapter or as otherwise published by the department.~~

ITEM 10. Amend subrule 33.5(4) as follows:

33.5(4) Application deadlines are the same for county, city, and private open space grant programs. Applications will be reviewed and projects selected for funding ~~one time each year in September at least once per year. Applications must be received in acceptable form by the department by the close of business on the fifteenth day of August.~~ The department shall publish on its website the date and time for submitting a funding proposal, providing at least 90 days' notice. Applications must be submitted to the department as described on the website. Upon a 60-day notice to potential applicants, the department may schedule additional review and selection periods to expedite the distribution of grant funds.

ITEM 11. Amend subrule 33.30(3) as follows:

33.30(3) Project planning and review committee.

a. The makeup of this committee is as follows: two representatives of the department appointed by the director; two county conservation board directors appointed by the director of the department with input from the ~~Iowa Association of County Conservation Boards~~ association of county conservation boards; one member selected every three years by a majority vote of the director's appointees. Additionally, there shall be at least two alternates designated by the director with input from the Iowa association of county conservation boards. The members shall select a chairperson at the first meeting during each calendar year. Terms of appointment to the committee shall be on a three-year staggered term basis.

b. Conflict of interest. An individual who is a member, volunteer, or employee of an entity that has submitted a project shall not serve on the scoring committee during that award cycle. Instead, one of the alternates shall review and score in the individual's place.

ITEM 12. Amend subrule 33.40(4) as follows:

33.40(4) Review and selection committee.

a. The director shall appoint a five-member review and selection committee to evaluate project applications. This committee shall include one member representing each of the three size classes of cities (e.g., one from a city of less than 2,000, one from a city of 2,000 to 25,000, and one from a city of over 25,000). The director shall request a list of candidates from the Iowa league of Iowa cities and Iowa parks and recreation association. The remaining two members of the committee shall be a representative of the department and an at-large member. Additionally, there shall be at least two alternates designated by the director from the candidates list provided by the Iowa league of cities and the Iowa parks and recreation association. The committee shall elect its own chairperson from its members. Members shall serve three-year staggered terms.

b. Conflict of interest. An individual who is a member, volunteer, or employee of an entity that has submitted a project shall not serve on the scoring committee during that award cycle. Instead, one of the alternates shall review and score in the individual's place.

ITEM 13. Amend subrule 33.50(4) as follows:

33.50(4) Project review and selection committee.

a. The director shall appoint a committee to review and score projects. The committee shall include the following: three persons representing the private sector and two alternates selected from a pool of potential names as submitted to the director by the various private eligible groups; administrator of the conservation and recreation division of the department, or the administrator's designee; and the bureau chiefs of the department's ~~forestry~~ wildlife bureau and parks, forests, and preserves bureau or their designees. The committee shall elect its own chairperson from its members. ~~The director shall request a list of candidates for the private sector members from groups eligible to participate in this program.~~ The committee will report to the director the order in which proposed projects were ranked using criteria as specified in 33.50(5).

b. Conflict of interest. An individual who is a member, volunteer, or employee of an entity that has submitted a project shall not serve on the scoring committee during that award cycle. Instead, one of the alternates shall review and score in the individual's place.

ITEM 14. Amend subrule 35.5(2) as follows:

35.5(2) Time of submission. Applications for funds shall be reviewed and selected for funding during ~~January of each year at least once per year. The district designee shall receive an original application and six copies in acceptable form by the close of business on the last business day of November of the previous year for consideration. The district shall forward a copy of all applications to the department's designee by December 15 of the previous year.~~ The department shall publish on its website the date and time for submitting a funding proposal, providing at least 90 days' notice. Applications must be submitted to the department as described on the website. Upon timely notice to eligible recipients, additional selection periods may be scheduled if necessary to expedite the distribution of funds. In emergencies, a county may request a waiver so that an acquisition project may be approved for retroactive payments if funds are available and the project meets all other criteria.

ITEM 15. Amend subrule 35.6(1) as follows:

35.6(1) Review and selection committee.

a. Each district shall have a review and selection committee, hereinafter referred to as the committee. Each committee shall be composed of at least five county directors or their designees, with at least two designated alternates. Each district's committee shall determine which grant applications and amendment requests shall be selected for funding. For advisory purposes only, a department biologist or designee shall be present during review and selection of grant applications and amendment requests.

b. Conflict of interest. An individual who is a member, volunteer, or employee of an entity that has submitted a project shall not serve on the scoring committee during that award cycle. Instead, one of the alternates shall review and score in the individual's place.